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Boulachanis: Murderer, Trafficker And Escapee Sent To Women's Prison

It's bad enough that male convicts can simply game the system to ensure they're placed with women. It seems that even being a convicted murderer, a narcotics trafficker, or having a history of escaping isn't necessarily enough to prevent it. Nor are allegations of sexual assault *while in custody*. Regardless of circumstances, women simply don't have rights to assert.

This covers John Boulachanis, who now goes by Jamie Boulachanis. He had previously been involved in drug trafficking, and murdered an accomplice he feared would turn him in.

Bagnald, Blackplume and Patterson were looked at previously.

In a convoluted decision, Justice Sébastien Grammond of the Federal Court allowed him to be transferred, at least until the issue was finally worked out. However, the Federal Court of Appeal stayed that decision.

Boulachanis Is Murderer With Previous Escape

> [17] Upon her return to Canada, ***Ms. Boulachanis was charged with first-degree murder and detained in provincial custody. In 2013, she managed to escape while being transported in a prison van, but was caught soon after***. After going through a metal detector, she handed over saw blades, handcuff keys and part of a screwdriver hidden in her body cavities. In 2015, a ***search of her cell turned up a variety of objects and instruments that could be used to escape***, including braided ropes, handmade handcuffs and tools. She was also convicted of obstructing justice for inducing witnesses to lie during her murder trial.

From Justice Grammond's own reasons, Boulachanis had escaped custody previously, and had the tools to do so another time. He was still allowed to be in a women's jail. Additionally, he had *fled the country*, and was only apprehended when he returned.

According to the Federal Court, Boulachanis lived under false identities in Greece, the United States, and elsewhere in Canada. Another reason to view him as a security risk.

Tortured Logic Coming From Federal Court

> [30] To determine whether Ms. Boulachanis presented a strong prima facie case, it can be helpful to begin by reviewing the positions of the parties. Ms. Boulachanis's position is straightforward: keeping her in a men's institution is discriminatory, and in addition, this violates the interim policy. ***Since she is legally a woman, she has the strict right to be***

accommodated in a women's institution.

[31] On the contrary, the Attorney General's argument is based on the exception that appears in the interim policy. He argues that Ms. Boulachanis's case, ***because of her high risk of escape, raises "overriding health or safety concerns which cannot be resolved.***" The decision to keep Ms. Boulachanis in a men's institution would be the result of weighing her right to equality against the objectives of the Corrections and Conditional Release Act, SC 1992, c 20 [the CCRA], namely those regarding public safety. Citing the decision in Doré v Barreau du Québec, 2012 SCC 12, [2012] 1 SCR 395 [Doré], the Attorney General argues that the outcome of this weighing exercise was reasonable.

[35] In our society, certain ***facilities or areas are often reserved for men or for women. Reconciling these deeply entrenched practices with the right to equality of trans people often raises challenges***. Nevertheless, there is prima facie discrimination when a trans person is forced to use facilities reserved for people of their anatomical sex, when they do not correspond to their gender identity or expression: see, for example, Sheridan and Kavanagh. Such an approach is consistent with a perspective based on individual autonomy in gender identity and expression.

[36] Thus, Ms. Boulachanis was ***subject to prima facie discrimination because of her gender identity or expression, given that she was denied a transfer to a women's institution, even though that is what corresponds to her current gender identity and expression and the designation of sex that now appears on her act of birth***. That was also the conclusion of the Canadian Human Rights Tribunal in Kavanagh, at paragraph 141. The interim policy the Service adopted in December 2017 was also based on the idea that respecting the right to equality of trans people required that their choice to be in a men or women's institution be respected.

[37] Ms. Boulachanis was also ***subject to prima facie discrimination from another perspective***. While all inmates undergo a risk assessment to determine their security classification, it is ***only in the case of trans women inmates that the Service use this assessment to deny them the possibility of being accommodated in a women's institution***. A cisgender woman who presented just as great a risk as Ms. Boulachanis would automatically be sent to a women's institution. That is another reason for a finding

of prima facie discrimination.

[40] In this case, the ***Attorney General is not claiming that the simple presence of trans women in women's institutions would cause undue hardship***. It appears that the adoption of the interim policy, which clearly provides for this presence, implicitly set aside the arguments that, more than fifteen years ago, led to the Canadian Human Rights Tribunal's finding in Kavanagh, at paragraphs 155–160.

[41] What the Attorney General is arguing is that ***accommodating trans women inmates in a women's institution must be subject to an assessment of the level of risk to health and safety. To justify this condition that would be applied only to trans women inmates, the Attorney General strongly insists on the fact that men and women's institutions do not meet the same security requirements***. In particular, the evidence clearly shows that the construction standards are different and that the use of firearms to ensure safety is prohibited in all women's institutions, whereas it is allowed in men's institutions, depending on their security level. These differences in the design and operation of the two categories of institution ***apparently reflect the fact that men are, in general, more dangerous than women, that the criminal behaviour of men and women is different, and that women may benefit from a different correctional approach based on their specific needs***. In this regard, the policy adopted by the Service is largely inspired by the report of Justice Louise Arbour concerning the riot that occurred at the Kingston women's prison in 1994 (Commission of Inquiry into Certain Events at the Prison for Women in Kingston, Minister of Public Works and Government Services Canada, 1996).

[42] I have no difficulty accepting the fact that it is appropriate to separate men and women in a correctional environment and that it is appropriate to implement less strict security measures in response to the different situation of women. But that is not the issue. The real issue is to determine whether, in a context where it is justified to keep separate institutions for men and women, ***Ms. Boulachanis should be treated as a man or as a woman.***

[45] I find it hard to believe that ***physical capability is so important in assessing the risk posed by an inmate that, for that reason alone, trans women inmates must be treated as men***. Furthermore, I note that the assessment to determine Ms.

> Boulachanis's security classification makes no mention of her physical capabilities.

> [48] In the ***absence of a reliable scientific basis, we are reduced to speculation, which is fertile ground for discriminatory prejudice***. At the hearing, the Attorney General made certain hypotheses about the physical and psychological effects of the various phases of the sex reassignment process on risk and dangerousness. I have ***serious doubts about the validity of such hypotheses***. Moreover, we should also consider the social effects of this process, in particular on the ability to maintain relationships with potential accomplices or criminal networks.

It's worth pointing out that the Attorney General isn't challenging the policy in any way. In other words, there's no issue *in principle* with men being in women's prisons. It's only that this specific one cause security risks.

The Judge doesn't think that just because Boulachanis is a man, that he should be treated as such.

Another noteworthy point is that there appears to be no concern for the well being of the *female* inmates at the prison.

Timeline Of Major Events In Case

August 9, 1997: John Boulachanis is charged with first degree murder of Robert Tanguay.

1998 to 2011: Boulachanis lives under various assumed names, and in other countries. He is eventually arrested after returning to Canada.

September 2016: Over several days, a Jordan Application is argued. The Defendant says that his rights have been violated due to the extensive delays in prosecuting him.

October 6th, 2016: The Quebec Court denies the Jordan Application to stay the case.

October 27th, 2016: Quebec Superior Court permitted the testimony of a certain witness to be admitted at Trial, but with limiting instructions to be issued when the time came.

November 29th, 2016: The Quebec Court refuses a request to get certain prosecution statements removed from the record.

December 17th, 2016: Boulachanis is convicted, receives automatic life sentence.

January 20th, 2017: Quebec Court of Appeal agrees to expedite a challenge to the sentence.

January, 2019: Now serving a life sentence, Boulachanis begins taking synthetic hormones.

April 11th, 2019: Boulachanis has a hearing Federal Court. The prison staff refused his request to be transferred to a female prison. They do however refer to him as "Jamie".

April 15th, 2019: Federal Court orders that Boulachanis can be transferred to a women's prison for the time being.

April 23rd, 2019: Federal Court of Appeal hears argument that Boulachanis should stay where he is, and that female prisons are not designed to hold someone like him.

April 24th, 2019: Federal Court of Appeal stays the transfer pending final determination of the original Application.

January 8th, 2020: Quebec Court of Appeal rejects an Appeal of 2016 decision that refused the Jordan Application.

January 11th 2021: Boulachanis is transferred to Joliette Women's Institution. Despite the FCA overturning Justice Grammond's ruling, he's in with women. Presumably, it was settled internally.

December 16th, 2021: Supreme Court of Canada grants an extension of time to file material for an Application for Leave to Appeal, but denies the Application itself. This was over the order which refused to stay his case for delay.

September 25th, 2024: CSC conducted a reassessment of his security clearance, which was currently at a "moderate" level.

The case didn't end in 2021. Boulachanis filed a Habeas Corpus Application, which was

refused. His security classification was raised, due to an incident of him trafficking morphine within the prison. As a result, he risked being sent back to a men's prison.

Ultimately, the Court refused to get involved in the case, stating they were not the "arbiters of the institutional day-to-day".

In any event, he never had any business being locked up with women, regardless of the other security risks he posed.

COURT DECISIONS (TRANSFER):
(1) https://www.canlii.org/en/ca/fct/doc/2019/2019fc456/2019fc456.html
(2) https://www.canlii.org/en/ca/fca/doc/2019/2019fca100/2019fca100.html
(3) https://www.canlii.org/fr/qc/qccs/doc/2025/2025qccs1049/2025qccs1049.html

COURT DECISIONS (MURDER CASE):
(1) https://www.canlii.org/fr/qc/qccs/doc/2016/2016qccs6867/2016qccs6867.html
(2) https://www.canlii.org/fr/qc/qccs/doc/2016/2016qccs6876/2016qccs6876.html
(3) https://www.canlii.org/fr/qc/qccs/doc/2016/2016qccs6877/2016qccs6877.html
(4) https://www.canlii.org/fr/qc/qccs/doc/2016/2016qccs6879/2016qccs6879.html
(5) https://www.canlii.org/fr/qc/qcca/doc/2017/2017qcca66/2017qcca66.html
(6) https://www.canlii.org/en/qc/qcca/doc/2020/2020qcca4/2020qcca4.html
(7) https://www.canlii.org/en/ca/scc-l/doc/2021/2021canlii129761/2021canlii129761.html

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